

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

MICHAEL WILLIAM BRAINARD,

Plaintiff,

vs.

CITY OF HUNTINGTON WOODS,

Defendant.

CV 19-38-GF-BMM-JTJ

**ORDER ADOPTING MAGISTRATE
JUDGE’S FINDINGS AND
RECOMMENDATIONS**

Plaintiff Michael William Brainard (“Brainard”) filed this action on May 28, 2019. (Doc. 1.) Brainard requested that the Court enjoin the City of Huntington Woods, Michigan, from taking any action with respect to Brainard’s real property in that city. (*Id.*) United States Magistrate Judge John Johnston notified Brainard on October 2, 2019, that the case record indicated that Brainard had not served the complaint on the City. (Doc. 2.) Judge Johnston gave Brainard the opportunity to show cause why the action should not be dismissed without prejudice. (*Id.* at 1.) Brainard did not respond to the Order.

Judge Johnston issued Findings and Recommendations on October 28, 2019. (Doc. 3.) Judge Johnston recommended that the Court dismiss without prejudice the action for Brainard’s failure to serve the complaint on the Defendant within 90 days. (*Id.* at 2.)

Brainard did not object to the Findings and Recommendations. He has waived the right to de novo review thereof. 28 U.S.C. § 636(b)(1)(C). Absent objection, this Court reviews findings and recommendations for clear error. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted). Reviewing for clear error and finding none,

IT IS ORDERED that Judge Johnston’s Findings and Recommendations (Doc. 3) are **ADOPTED IN FULL**.

IT IS FURTHER ORDERED that the action is **DISMISSED WITHOUT PREJUDICE** for failure to serve the complaint on the Defendant within 90 days.

The Clerk of Court is directed to enter, by separate document, a judgment of dismissal.

DATED this 15th day of November, 2019.



Brian Morris
United States District Court Judge